

No. 9(1) 81-8Lab/7685.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workmen and the management of M/s Autometers, Ltd., Mathura Road, Ballabgarh.

IN THE COURT OF SHRI HARI SINGH KAUSHIK, PRESIDING OFFICER,
LABOUR COURT, HARYANA, FARIDABAD

Reference No. 369 of 1980

Between

SHRI RAJ SINGH, WORKMAN AND THE MANAGEMENT OF M/S. AUTOMETERS
LTD., MATHURA ROAD, BALLABGARH.

Present:—Shri Sagar Ram Gupta for the workman.
Shri Surender Singh Rao for the management.

AWARD

The reference No. 508 of 1980 has been referred to this Court by Hon'ble Governor of Haryana,—*vide* his order No. ID/FD/11-80, dated 22nd August, 1980 under section 10(1)(c) of the Industrial Disputes Act, 1947 for adjudication in the dispute existing between the workman Shri Raj Singh and management of M/s. Autometers Ltd., Mathura Road, Ballabgarh. The term of the reference was:—

Whether the termination of services of Shri Raj Singh was justified and in order ?
If not, to what relief is he entitled ?

After receiving this reference notices were sent to the parties for 4th December, 1980. The parties appeared. The workman hold demand notice in which he states that he was appointed as a purchase clerk on 15th July, 1980 on permanent basis against a permanent post at the rate of Rs. 300/- p.m. His work was quite satisfactory during his service. He was not given any charge-sheet before termination or dismissal order. On 19th August, 1980, Shri Jagir Singh told him in time office and put before him two white papers to sign, one of them was with revenue stamp-affixed. He was forced to sign on clean papers which he objected to, on which he (Jagir Singh) called 3 or 5 gundas in the office they threatened him with dire consequences. He says that he has signed on blank papers under pressure. That in this illegal way his services terminated which is against the natural justice. He prays for his re-instatement with continuity of services and full back wages. He does not say in his claim statement or demand notice about the actual date when his services were terminated by the management. In the written statement the management controverts the contents of demand notice and claim statement of the workman Shri Raj Singh. They say he was appointed as a trainee for six months on consolidated salary of Rs. 300/- p.m. on 15th July, 1980. His work was found un-satisfactory and he was removed on 13th August, 1980 and he was paid his full dues Rs. 246/60 naya paise. They say no charge-sheet was needed to be given to the workman Shri Raj Singh and it is a case of discharge simplicitor and thus their act was legal and based upon the principle of natural justice. The workman did not file any rejoinder and on the pleadings of the both parties, the following issues were framed:—

- (i) Whether the workman claimant was appointed on permanent basis and he was regular employee ? If to what effect ?
- (ii) Whether the termination of the workman is proper justified and in order ?
If not, to what relief is he entitled ?

(iii) Relief.

My findings on issue No. 1 is as under:—

The workman appeared as WW-1 for himself and produced two other witnesses Shri Yad Ram, Constable of Police Station, Ballabgarh as WW-2 and Shri Panna Lal, Electrician as WW-3 and closed his evidence and produced one document exhibited W-1 and application given by the workman to the Police Station. The respondent management produced Shri Jagir Singh, Asstt. Labour Officer as MW-1 and Harbans Lal Batra, Timekeeper as MW-2 and closed their evidence and produced two documents Exhibited M-1 an application of Shri Raj Singh for service and exhibit M-W2 a voucher of payment to Shri Raj Singh, workman. Issue No. 1 is whether the workman was permanent employee or temporary one. The onus of this issue was on workman. He in his statement has stated that he was appointed as a purchase clerk by the management on 15th July, 1980 on a salary of Rs. 300/- p.m. consolidated. He was terminated on 13th August, 1980. He has again stated that no appointment letter was issued to him by the management for his appointment and terminated him without assigning any reason. He again stated that on 19th August, 1980 in the morning when he went in the management company on duty he told by the MW-1 Shri Jagir Singh that his services has been terminated. He says that he was appointed on permanent basis as the order of the appointment was not given to the workman. On that he was not allowed to do his duty. He is a graduate of M.D. University and was conversant with Hindi and English languages. The respondent management got his signature on three blank papers with force, with the help of three co-workmen who were with the personnel officer Shri Jagir Singh, there was nothing written on these papers and one of them was with revenue stamp. On 21st August, 1981, he raised a demand and also lodged a report with the police station for this happening. The copy of the report exhibited W-1. He says he made this report on 22nd August, 1980. He admits in his cross-examination that he filed an application Ex. M-1 and signed on it at mark A. He says he filed and signed exhibited M-1 after reading it. He admits its photograph Exhibited M-1. He admits the exhibited M-2 which is a voucher of payment of wages for the period he worked with the management at the rate of 300/- p.m. He says these are the same documents on which signature of the workman were taken by force as he alleged in his demand notice. He denies having requested for preparing his final payment on 13th August, 1980 which he actually collected on 18th August, 1980. Exhibited W-1 duly entered in the daily diary register of the Police Station, Ballabgarh. From 19th August, 1980 to 21st August, 1980 he has made no complaint to any section. He further says he does not know the names of the persons who used force to get his signature.

The statement of the workman is un-believable as says that respondent management got his signature on the blank white papers, one of them was with revenue stamp but it not so. Exhibited M-1 is printed form where exhibited M-2 is a printed voucher. Secondly in his demand notice he has stated that there were two blank papers got signed by the management. But in his statement before the court and in the application of the police station these papers have been stated to be three in number. He admits that he had read questionnaire of exhibited M-1. The respondent management has not produced in his evidence any such blank paper which can create doubt that the management might have got the signature by force or which might have been blank and filled by them later on. Thirdly M-1 clearly shows that he had been appointed for the fix period of six months on consolidated salary of Rs. 300/- p.m. The workman in his statement before this court and in his demand notice or claim statement has never stated that these lines were added in exhibit M-1 later on by the management.

The management's witness MW-1 Shri Jagir Singh has also stated that he was appointed for six months on consolidated salary of Rs. 300/- p.m. as trainee. There is no suggestion to this witness from the worker side that he was appointed permanently. The workman only says that he was verbally told that he was appointed permanently. The representative of the workman in his argument referred

AIR., 1975 Madras, page 333. By this reference learned representative wants the admission of the workman on exhibited M-1 and M-2 may not be treated as admission of execution of documents but this reference is not fitted to this present case as fully discussed above and exhibited MW-1 is a form filled by the workman himself and admitted in his statement and signed himself. The workman himself proved the execution of the documents exhibited M-1 and M-2 by his own statement. The representative of the workman also produced one reference 1973 Supreme Court cases page 538. The facts of the citation is quite different from the present case. The respondent management has given no reference and no citation on this point.

So having discussed this issue in the above lines I decide this issue against the workman Shri Raj Singh and in favour of the respondent management. He was appointed as a trainee as exhibited M-1 for a fix period of six month at the rate of Rs. 300/- p.m. consolidated.

Issue No. 2

This issue as per reference about justification of the termination of the service of the workman by the management. The management produces exhibited M-1 an application of the workman filled by himself and exhibited M-2 voucher of payment of Shri Raj Singh for the wages due to him and produce two witnesses Shri Jagir Singh as MW-1 and Shri Harbans Lal Batra, time keeper as MW-2 to prove this issue. On the other hand the workman produces exhibited W-1 an application of the police station and three witnesses including himself and Shri Yad Ram Constable, Police Station, Ballabgarh and Shri Panna Lal Electrician of respondent company. The workman says that exhibited W-1 duly entered in the daily diary register of the Police Station but he did not summon that permanent record of the Police Station is not known. He says that no appointment letter was given to him at the time of appointment, nor the orders of the management for his appointment were received by the workman. The workman's representative argued that the order of the respondent is arbitrary without assigning any reason or enquiry against the workman. For this he produces one reference L.S. 73, page 538. But in his reference the case is quite different and not applicable in the present case, and on this point representative of the management argued that workman was employed as trainee not on probation. Only the probation persons have the right of enquiry and notice of reasons. He also argued that the workman had no complaint under the law provided. He further argued that there was no threat on the side of the respondent as the workman is a graduate and signed exhibited M-1 and M-2 deliberately not under the force or threat. He again argued that standing order is not applicable for such workman. The learned representative of the respondent referred 1976 F.L.R. page 280 by which he wants to prove that temporary person cannot be removed without assigning any reason and without enquiry but at the time of the arguments he did not produce any book for my consideration. The representative of the workman draw my attention towards exhibit M-1 an application of the workman in which there is written "It is clearly understood by me that my appointment is temporary and there can be termination during the probation period." By this he wants to prove that the workman was not trainee but appointed on probation. In this regard, he referred A.I.R., 1964 Supreme Court, page 806 in which their Lordship has hold "Without anything more an appointment on probation for six months gives the employer no right to terminate the services of an employee before six months had expired except on the grounds of misconduct or other sufficient reason in which case even the services of permanent employee could be terminated. At the end of six months period, the employee can either confirm or terminate his services because his service is found unsatisfactory." In this case the workman was appointed on 15th July, 1980 and his services were terminated on 13th August, 1980 which is a very small period for a trainee. The workman has produced two witnesses Shri Yad Ram, Constable as WW-2 who told in his statement that workman has given one application exhibited W-1 to the Police Station on 22nd August, 1980. WW-3 Shri Panna Lal has supported the workman contention in his statement.

After having discussed the above fact, I am of the views that the management could only remove the workman after the expiry of six months fixed period of training as admitted by the management in its written statement and the witnesses of the management. So the management should pay the workman his salary for fixed period completing the six months, when they could only terminate him that day at the rate of 300/- p.m. The respondent management removed the workman without assigning any reason for his termination. No order as to costs. This be read an answer to reference. The applicant is entitled to recover the remaining amount Rs. 1,553/40 from the management.

HARI SINGH KAUSHIK,

Dated 19th June, 1981.

Presiding Officer,
Labour Court, Haryana,
Faridabad.

Endst. No. 1834, dated 30th June, 1981.

Forwarded (four copies) to the Commissioner & Secretary to Government, Haryana Labour & Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947, with the request that the receipt of the above said award may please be acknowledged within week's time.

HARI SINGH KAUSHIK,

Presiding Officer,
Labour Court, Haryana,
Faridabad.

No. 9(1)81-8Lab./7689.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workmen and the management of M/s Nibro Ltd., Delhi Road, Gurgaon.

IN THE COURT OF SHRI HARI SINGH KAUSHIK, PRESIDING OFFICER,
LABOUR COURT, HARYANA, FARIDABAD

Reference No. 405 of 1980

between

SHRI SHIV PUJAN, WORKMAN AND THE RESPONDENT-MANAGEMENT
OF M/S NIRBO LTD., DELHI ROAD, GURGAON

Present :—

Shri Sharda Nand, for the workman.

Shri M. P. Gupta, for the management.

AWARD

The reference No. 405 of 1980 has been referred to this Court by the Hon'ble Governor of Haryana,—*vide* his order No. ID/FD/41-80, dated 29th May, 1980 under section 10(i)(c) of the Industrial Disputes Act, 1947 for adjudication in the dispute existing

between the workman Shri Shiv Pujan and the management of M/s Nirbo Ltd., Delhi Road, Gurgaon. The term of the reference, was :—

Whether the termination of services of Shri Shiv Pujan was justified and in order ? If not, to what relief is he entitled ?

On receipt of this reference, notices were issued to the parties. The parties appeared and filed their pleadings. On pleading of the parties, issue was put as per terms of reference and the case was fixed for the evidence of the management on 28th November, 1980. The management produced one witness Shri R. S. Kandhari, Personnel Officer, of the company and closed their evidence. The workman also examined himself and closed his case. My finding on issue No.1 is as under :—

Issue No. 1.—The workman's case is that he was terminated from the service without any reason illegally on 21st May, 1981 and he had demanded his re-instatement with full back wages. The respondent denied this allegation on the plea that he went home with 5 days leave from 12th April, 1980 to 16th April, 1980 and after the expiry of the leave did not extend the leave, inspite of their letter, dated 19th April, 1980, Exhibit M-3 and did not report on duty inspite of their letter and telegram Exhibit M-3 and Exhibit M-2, dated 19th April, 1980. The workman did not report on duty inspite of respondent's letter, dated 26th April, 1980 which Exhibit M-4 in which the respondent management had clearly mentioned the fate of the workman's absent from duty, "after the expiry of continuous ten days' absence your's name will be struck off from the roll of management." The workman had received these letters, there are signature on the A.D.'s of the workman which are Exhibit M-3/1, Exhibit M-4/1 and Exhibit M-5/2. The workman has admitted these signatures. According to the statement of Shri R. S. Kandhari as MW-1, the workman joined their service on 1st July, 1976. He proceeded on leave, the leave application Exhibit M-1 bears signature of the workman. The workman did not report on duty after expiry of the leave period. The witness further stated that the respondent management sent a letter, dated 19th April, 1980 which Exhibit M-2, the A.D. of the same is Exhibit M-2/1. On the same a telegram was also sent which Exhibit M-3, the A.D. of which is Exhibit M-3/1, another letter was also sent which is Exhibit M-4, the A.D. of the same letter is Exhibit M-4/1 and postal receipt Exhibit M-4/2. He further stated that respondent management sent on other letter Exhibit M-5 dated 10th May, 1980 by which the services of the workman were terminated. The A.D. of the same is Exhibit M-5/1. The respondent company received one medical certificate of the petitioner, dated 2nd May, 1980 which is received on 10th May, 1980 A.N. which is Exhibit M-7. This letter was received after the orders of termination were passed. He stated in examination chief that the respondent rightly struck off the name of the workman under the rules and law of the respondent. He referred the standing order of the company.

The petitioner in his statement says that he joined the service on 22nd July, 1976 and removed from there on 21st May, 1980 without any reason or charge-sheet or any enquiry. He had gone on leave from 10th April, 1980 for five days and send an application for extension of leave for one month and three days. He further states that he submitted an application and medical certificate which is Exhibit M-2 application, dated 13th May, 1980 and postal receipt Exhibit W-1/1. He states that he applied for leave upto 20th July, 1980. In cross-examination, the petitioner admits Exhibit M-1 leave application, dated 10th April, 1980. He further admits that he had not sent any other application for extension of leave except Exhibit W-1, dated 13th May, 1980. He also admits the signatures on Exhibit's M-3/1, M-4/1, M-5/2 and M-7/1 in his cross-examination. The petitioner further states that he could not reply these letter as he was admitted in the hospital and he did not remember the name of the hospital.

In my views the petitioner is rightly terminated from service because in Exhibit M-1 the sanctioned leaves are from 12th April, 1980 to 16th April, 1980 whereas the

petitioner stated in his statement that he proceeded on leave on 10th April, 1980. He admits Exhibit M-1 in his cross-examination. He further states that he applied for the extension of leave by letter Exhibit W-1, dated 13th May, 1980. In that letter he has stated that he would be able to come on 17th or 18th as he fell down from the train and received injuries. There is no mention of any month or year or any hospital where he was admitted. It cannot be considered as application for extension of leave. The medical certificate Exhibit M-7 sent by the petitioner does not tally with the application Exhibit W-1, as in the medical certificate the Dr. has mentioned different disease and not any injury by fall from the train. The petitioner has admitted in his cross-examination that he had not replied any letter of the respondent. The learned representative of the respondent draw my attention towards the Standing Order of the respondent company para (3) and (4) of clause 16 which speaks as under

"In the event of a workman desiring extension of the originally sanctioned leave or subsequently extended and sanctioned leave, he shall make an application in writing to the Manager under registered cover specifically stating the reasons warranting such an extension and shall submit it in advance of the expiry of this leave so that adequate time is available for the application to reach the management and for the reply to be communicated to the workman on the basis of normal postal transit time. The Manager or any other authorised person on his behalf as soon as possible on receipt of such application inform the workman under registered cover on the address given by the applicant whether the extension applied for has been sanctioned or refused. If the workman desires a telegraphic reply by the management he shall send a reply paid telegram. If the workman remains absent without sanctioned leave or beyond the period of leave originally granted or subsequently extended he shall lose his lien on his appointment unless (a) he returns within 10 days of the commencement of the absence or the expiry of the leave and (b) explains to the satisfaction of the Manager the reasons of his absence or his inability to return on the expiry of the leave, as the case may be."

I agree with the contention of the representative of the management. The representative of the workman simply argues his case that the intention of workman was not bad. I do not agree with this argument. On my above discussions I hold that the workman abandoned his job of his own. Therefore, this issue is decided in favour of the management.

After deciding issue No. 1 in favour of the management no relief can be given to the petitioner.

While answering the reference, I give my award that the management did not terminate the services of the workman rather on the other hand the workman abandoned his job of his own by remaining absent. The workman is not entitled to any relief.

Dated, the 27th June, 1981.

HARI SINGH KAUSHIK,
Presiding Officer,
Labour Court, Haryana,
Faridabad.

Endst. No. 1835, dated 30th June, 1981.

Forwarded, (four copies), to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947, with the request that the receipt of the above said award may please be acknowledged within week's time.

HARI SINGH KAUSHIK,
Presiding Officer,
Labour Court, Haryana,
Faridabad.